

TRANSPORT AMENDMENT ACT 1986

No. 52 of 1986

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TRANSPORT AMENDMENT ACT 1986

No. 52 of 1986

AN ACT to amend the Transport Act 1981.

[Royal Assent 20 May 1986]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Transport Amendment Act* Short title. 1986.

2—(1) This section and sections 1, 5 (1), and 7 shall com- Commence-
mence on the day on which this Act receives the Royal assent. ment.

(2) Section 5 (2) shall commence on such day as may be fixed by proclamation.

(3) Sections 3, 4, 6, 8, 9, 10, 11, 12, and 13 shall be deemed to have commenced on 1st July 1985.

3—In this Act, the *Transport Act 1981** is referred to as the Principal Act. Principal Act.

* No. 20 of 1981. Amended by No. 62 of 1981, No. 10 of 1982, No. 18 of 1983, and No. 29 of 1984.

Amendment of
section 3 of
Principal Act
(Interpre-
tation).

4—Section 3 of the Principal Act is amended as follows:—

- (a) by inserting “(1)” before “In this Act”;
- (b) by inserting after the definition of “motor vehicle” the following definition:—

“prescribed branch” means a branch of the Commission which the Treasurer declares to be a prescribed branch;

- (c) by adding the following subsection as subsection (2) of that section:—

(2) The Treasurer may, by order published in the *Gazette*, declare a branch of the Commission to be a prescribed branch.

Amendment of
section 5 of
Principal Act
(Powers of the
Commission).

5—(1) Section 5 of the Principal Act is amended by inserting the following paragraph after paragraph (c) of subsection (1):—

- (ca) to enter into contracts for the provision by it or any persons appointed or employed pursuant to section 8 of professional, consulting, and technical services and for the sale or use of equipment on such terms and for such fees and charges as may be specified in those contracts;

(2) Section 5 of the Principal Act is further amended by inserting the following subsections after subsection (5):—

(6) In addition to the powers conferred on it by subsection (1), the Commission may, subject to any directions given to it by the Minister pursuant to section 7, collect statistics with respect to all exports from, and all imports into, a place within the jurisdiction of a marine board to and from a place beyond Tasmania.

(7) For the purposes of subsection (6), without affecting the generality of section 27, the regulations under that section may make provision for or with respect to the collection by the Commission of statistics of the kinds prescribed by those regulations.

(8) Without prejudice to the generality of subsection (7), the regulations made for the purposes of subsection (6) may—

- (a) prescribe the persons who, or the classes of persons which, are required to supply the Commission with information in relation to the statistics referred to in subsection (6);

- (b) make provision for or with respect to the method of supplying the Commission with the information referred to in paragraph (a) and the time within which that information shall be supplied to the Commission;
- (c) make provision for or with respect to the forwarding by the Commission to the Government Statistician of any such information supplied to it pursuant to those regulations;
- (d) be made subject to such conditions, or be made so as to apply differently according to such factors, as may be specified in those regulations or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified; and
- (e) authorize any matter or thing to be from time to time determined, applied, or regulated by a person specified in the regulations.

(9) A person who contravenes, or fails to comply with, any of the regulations made for the purposes of subsection (6) is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$1 000.

6—Section 11 (2) (f) of the Principal Act is amended by inserting “or raised” after “borrowed”.

Amendment of section 11 of Principal Act (Bank accounts; Funds of Commission).

7—Section 12 of the Principal Act is repealed and the following section is substituted:—

Substitution of section 12 of Principal Act.

12—(1) Subject to subsections (2) and (3), for the purpose of meeting working expenses, the Commission may, with the consent, in writing, of the Treasurer, borrow money by overdraft on any bank account established under section 11.

Power of Commission to borrow by overdraft.

(2) The total amount borrowed by overdraft pursuant to subsection (1) shall not at any time exceed \$500 000.

(3) The Commission shall not borrow money by overdraft pursuant to subsection (1) if that borrowing would increase the total amount borrowed by overdraft pursuant to that subsection to an amount exceeding \$100 000 unless it first obtains the written approval of the Treasurer—

- (a) for the purpose for which the money is to be borrowed;
- (b) for the amount of money to be borrowed; and
- (c) for the period for which the money is to be borrowed.

Insertion in
Principal Act
of new
section 12A.

General
powers of
Commission
to borrow
and raise
money.

8—The following section is inserted in the Principal Act after section 12:—

12A—(1) Subject to this section, the Commission may, with the approval of the Treasurer—

- (a) borrow; or
- (b) raise,

money for the purposes of this Act.

(2) Any money borrowed by the Commission pursuant to subsection (1) (a) may be secured—

- (a) by the issue of debentures payable to bearer with interest coupons attached;
- (b) by the issue of inscribed stock, to be called “Transport Tasmania Incribed Stock”;
- (c) in such other manner (including the issue of other securities) as the Treasurer approves; or
- (d) by a combination of any 2 or more of the methods specified in paragraphs (a), (b), and (c).

(3) Any borrowing pursuant to subsection (1) (a) shall bear interest at such rate and be on such terms and conditions as the Commission, with the approval of the Treasurer, determines.

(4) Money may be raised pursuant to subsection (1) (b)—

- (a) by the sale of debentures payable to bearer with interest coupons attached;
- (b) by the sale of inscribed stock, to be called “Transport Tasmania Incribed Stock”;
- (c) by the sale of such other securities as the Treasurer approves; or
- (d) by a combination of any 2 or more of the methods specified in paragraphs (a), (b), and (c).

(5) Any securities issued pursuant to subsection (2) or sold pursuant to subsection (4)—

- (a) shall bear interest at such rate and be payable in respect of such periods and at such places as the Commission, with the approval of the Treasurer, determines;
- (b) shall be redeemable at such date and at such place as the Commission, with the approval of the Treasurer, determines;
- (c) may, with the consent of the holder or registered owner of the securities, be repurchased at any time before the due date for repayment; and
- (d) shall rank *pari passu* in point of charge without any preference or priority one over another.

(6) For the purposes of borrowing and of issuing securities and of raising money by the sale of securities, the Commission may, with the approval of the Treasurer, create a charge over the income or other assets of the Commission.

(7) The Commission may, at the request of the holder or registered owner of any securities issued pursuant to subsection (2) or sold pursuant to subsection (4), issue to him in place of those securities any other form of securities issued pursuant to subsection (2) or sold pursuant to subsection (4), as the case may be, in respect of the same borrowing or raising, on such terms and conditions as may be agreed between the Commission and the holder or registered owner.

(8) The due payment of money borrowed pursuant to subsection (1) (a) or raised pursuant to subsection (1) (b) and the redemption of any securities issued pursuant to subsection (2) or sold pursuant to subsection (4) and the interest on that money and on those securities is guaranteed by the State, and any liability of the Crown arising by virtue of this subsection shall be a charge on the Consolidated Revenue, and shall be payable out of the Consolidated Revenue without further appropriation than this section.

(9) If the Treasurer so requires, the Commission shall, at such times as are specified by the Treasurer, pay into the Transport Commission Replacement and Loan Redemption

Depreciation Account such sums as may be necessary to enable the due payment of money borrowed pursuant to subsection (1) (a) or raised pursuant to subsection (1) (b).

(10) Where, for the purpose of the due payment of money borrowed pursuant to subsection (1) (a) or raised pursuant to subsection (1) (b), it is necessary to resort to the provision made under subsection (9), the Commission may require the Board of Commissioners of the State Sinking Fund to make the necessary funds available to it or may obtain an advance on the security of that right.

(11) A trustee, unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust money in his hands in any borrowing or raising pursuant to this section, and the investment shall be deemed to be an investment authorized by the *Trustee Act 1898*.

(12) A body corporate incorporated by or under any Act may invest any money which it is authorized or directed to invest in any borrowing or raising pursuant to this section, and the investment shall, in addition to any other investments expressly provided for the investment of that money, be a lawful investment.

(13) No notice of any trust, whether express, implied, or constructive, shall be received by the Commission or by an officer of the Commission in relation to any securities issued pursuant to subsection (2) or sold pursuant to subsection (4).

(14) For the purposes of this section, without affecting the generality of section 27, the regulations under that section may make provision for or with respect to—

- (a) the form of securities;
- (b) the manner of issuing, selling, transferring, redeeming, and repurchasing securities;
- (c) the keeping and inspection of and the taking of copies of or extracts from any register or ledger relating to securities;
- (d) lost or defaced securities; or
- (e) any other matter considered necessary or convenient for the exercise by the Commission of its powers under this section.

9—Section 14 of the Principal Act is repealed and the following section is substituted:— Substitution of section 14 of Principal Act.

14—(1) The Commission may invest any money held by it and derived from a branch of the Commission other than a prescribed branch in such securities as the Treasurer may approve. Investment of money by Commission and payment of certain money into trust account.

(2) The Commission shall pay any money derived from the operations of a prescribed branch that are surplus to the immediate requirements of that branch into a trust account established in the Treasury for that purpose.

10—Section 16 (1) of the Principal Act is amended as follows:— Amendment of section 16 of Principal Act (Commission to pay interest on loans, &c.).

(a) by inserting after “Treasurer” (firstly occurring) “, in accordance with the provisions of this section,”;

(b) by omitting all the words following “year,” and substituting “interest in respect of—

(a) such part of a loan referred to in section 15, and such part of any advance made to the Commission under section 13, as the Treasurer may from time to time determine; or

(b) so much of that part of the loan or advance determined by the Treasurer under paragraph (a) as remains owing to the State”.

11—(1) Section 17 (1) of the Principal Act is amended as follows:— Amendment of section 17 of Principal Act (Transport Commission Depreciation Fund).

(a) by omitting “The” and by substituting “Unless otherwise directed by the Treasurer, the”;

(b) by inserting “, if any,” after “sums”.

(2) Section 17 (3) of the Principal Act is amended by omitting “a loan referred to in section 15” and substituting “that part of a loan as is determined by the Treasurer under section 16 (1) (a)”.

(3) Section 17 (4) of the Principal Act is amended by inserting “that part of” after “the amount of”.

(4) Section 17 (5) of the Principal Act is amended as follows:—

(a) by omitting from paragraph (b) “Parliament; or” and substituting “Parliament;”;

(b) by omitting from paragraph (c) “assets.” and substituting “assets; or”;

(c) by inserting the following paragraph after paragraph (c):—

(d) the due payment of any money borrowed pursuant to section 12A (1) (a) or raised pursuant to section 12A (1) (b).

Amendment of section 18 of Principal Act (Accounts to be prepared annually).

12—Section 18 (1) of the Principal Act is amended as follows:—

(a) by inserting in paragraph (a) “, if any,” after “provision”;

(b) by inserting in that paragraph “, other than the balance shown in the trading account of a prescribed branch,” after “trading accounts”;

(c) by inserting in paragraph (c) (iv) “(other than loans and advances in respect of a prescribed branch)” after “advances”;

(d) by inserting in paragraph (e) “, other than the assets and liabilities in respect of a prescribed branch,” after “Commission”.

Insertion in Principal Act of new section 19A.

13—The following section is inserted in the Principal Act after section 19:—

Accounts, &c., of prescribed branches.

19A—(1) Within 2 months after 1st July in each year, the Commission shall, in relation to a prescribed branch, cause to be prepared a profit and loss account for the immediately preceding financial year and such other accounts as the Treasurer may direct.

(2) The Commission shall, when directed by the Treasurer, establish a reserve fund in relation to a prescribed branch and shall transfer to that fund such amount of the credit balance of the profit and loss account of that prescribed branch as the Treasurer may from time to time require.

(3) Any credit balance remaining in the profit and loss account of a prescribed branch, after the Commission has transferred to a reserve fund such amount as the Treasurer may require under subsection (2), shall be applied in such manner as the Treasurer may direct.

(4) To meet any losses incurred in the operations of a prescribed branch, to meet any repayment of money borrowed or raised in relation to that branch, or to meet any special or unforeseen costs in relation to that branch, the Commission shall, to the extent directed by the Treasurer, draw on—

- (a) the reserve fund established under subsection (2) in relation to that prescribed branch;
- (b) money borrowed or raised under section 12A (1) in relation to that prescribed branch; and
- (c) such other sources as may be determined from time to time by the Treasurer.

(5) The Treasurer may, out of money voted by Parliament for the purpose, reimburse the Commission for such losses, or such parts of such losses, incurred in the operations of a prescribed branch, as the Treasurer may from time to time determine.

(6) Where a credit balance remains in a reserve fund established in relation to a prescribed branch under subsection (2), after the losses and costs referred to in subsection (4) in relation to that branch have been met, the Treasurer may draw on that credit balance to such extent and for such purposes as he may determine.

